

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF JOSEPHINE

**JOHN B. LARUE, III,**

Plaintiff,

vs.

**JOSEPH SALLMAN**, an individual, **LINDA SALLMAN**, an individual, and **ART'S RED GARTER STEAKHOUSE & SALOON**, a corporation of Oregon,

Defendants.

Case No.

**COMPLAINT**

(Personal Injury – assault, battery, intentional infliction of emotional distress, negligence, statutory dram shop and social host liability – for amount not to exceed **\$1,580, 310.29**)

Filing Fee: \$834 (ORS 21.160(1)(d))

**CLAIM NOT SUBJECT TO MANDATORY ARBITRATION**

**DEMAND FOR JURY TRIAL**

Plaintiff (“JOHN LARUE”) alleges:

**1.**

Due to the amount prayed for herein this claim is not subject to mandatory arbitration.

**2.**

At all times material, JOHN LARUE was an individual residing at 27890 Redwood Highway, Cave Junction, Oregon, in Josephine County. At all times material, Defendant JOSEPH SALLMAN was an Oregon resident living in Josephine County.

**3.**

At all times material, Defendant Art’s Red Garter Steakhouse & Saloon (“THE SALOON”) is an Oregon corporation, duly authorized to transact business in the state of Oregon, and was doing business for profit in the state of Oregon.

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4.

At all times material, THE SALOON was operating its business as a restaurant and bar at the premises at 126 S Redwood Highway, Cave Junction, Oregon in Josephine County.

5.

At all times material, Defendant LINDA SALLMAN was the owner of THE SALOON.

6.

On or about July 1, 2017, at approximately 7am, Defendant JOSEPH SALLMAN entered THE SALOON as a patron and invitee, and was served alcohol. Throughout the day, Defendant JOSEPH SALLMAN, became visibly intoxicated and was served additional alcohol.

7.

Based on information and belief, Defendant JOSEPH SALLMAN is known by those around him, including staff members at THE SALOON and Defendant LINDA SALLMAN, to become violent and use firearms when he is intoxicated.

8.

On July 1, 2017, Defendant JOSEPH SALLMAN was provided an excessive amount of alcohol at THE SALOON. After becoming heavily intoxicated Defendant JOSEPH SALLMAN left THE SALOON and went to JOHN LARUE's residence. When JOHN LARUE opened his door, Defendant JOSEPH SALLMAN made threatening statements to JOHN LARUE and then walked away. Defendant JOSEPH SALLMAN then returned carrying an assault rifle. Defendant JOSEPH SALLMAN fired multiple rounds from the AK-47 at JOHN LARUE, at his dog, and at his truck, hitting JOHN LARUE with three bullets and killing JOHN LARUE's dog.

9.

Defendant JOSEPH SALLMAN was over-served with alcohol at THE SALOON, resulting in JOSEPH SALLMAN becoming foreseeably violent.

1 **10.**

2 As a result of Defendant JOSEPH SALLMAN's intoxication, he used an assault rifle to  
3 attempt to murder and assault JOHN LAUE causing injuries as described below.

4 **11.**

5 As a result of Defendants' conduct, JOHN LARUE has sustained the following injuries  
6 and noneconomic damages, some of which may be permanent:

- 7 a. Damage to the muscles, ligaments, tendons, nerves, and other soft tissue of the  
8 chest and right shoulder;
- 9 b. Gunshot wounds to the chest and right shoulder;
- 10 c. Scaring on the chest and shoulder;
- 11 d. Loss of feeling and use of his right arm;
- 12 e. Pain, discomfort, and suffering;
- 13 f. Difficulty sleeping;
- 14 g. Post-Traumatic Stress Disorder; and
- 15 h. Inconvenience and interference with usual and everyday activities, apart from  
16 gainful employment, on a permanent basis;
- 17 i. Loss of companionship and grief over the death of his companion animal;

18 All to Plaintiff's noneconomic damage in the sum of **\$1,500,000.**

19 **12.**

20 As a result of Defendants' conduct, JOHN LARUE has sustained the following  
21 economic damages:

- 22 a. Reasonable and necessary medical expenses to date in the approximate sum of  
23 **\$14,810.29;**
- 24 b. Reasonable and necessary future medical expenses in the approximate sum of  
25 **\$65,000,** in an amount to be determined at trial;
- 26

1 c. Reasonable fair market value of his dog, in the approximate sum of **\$500**, in an  
2 amount to be determined at trial;  
3 All to Plaintiff's economic damages in the sum of **\$80, 310.29**.

4 **FIRST CLAIM FOR RELIEF**

5 **(Assault)**

6 **(Defendant Joseph Sallman)**

7 **13.**

8 JOHN LARUE realleges and incorporates paragraphs 1 - 12.

9 **14.**

10 Defendant JOSEPH SALLMAN intentionally attempted to cause the death of JOHN  
11 LARUE, which placed JOHN LARUE in fear of immediate injury, and at such time Defendant  
12 JOSEPH SALLMAN had the ability to inflict such injury.

13 **SECOND CLAIM FOR RELIEF**

14 **(Battery)**

15 **(Defendant Joseph Sallman)**

16 **15.**

17 JOHN LARUE realleges and incorporates paragraphs 1 - 12.

18 **16.**

19 Defendant JOSEPH SALLMAN recklessly made physical contact with the person of  
20 JOHN LARUE, without the consent of JOHN LARUE, causing the injuries and damages as  
21 alleged above in paragraphs 11 and 12.

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**THIRD CLAIM FOR RELIEF**

**(Intentional Infliction of Emotional Distress)**

**(Defendant Joseph Sallman)**

**17.**

JOHN LARUE realleges and incorporates paragraphs 1 – 12.

**18.**

At all times material, Defendant JOSEPH SALLMAN intended to inflict on JOHN LARUE severe mental or emotional distress, and such severe mental and emotional distress was certain or substantially certain to result from his conduct.

**19.**

At all times material, Defendant JOSEPH SALLMAN's acts consisted of an extraordinary transgression of the bounds of socially tolerable conduct and exceeded any reasonable limit of social toleration.

**20.**

Defendant JOSEPH SALLMAN's acts alleged above caused JOHN LARUE severe mental and emotional distress, resulting in his injuries and damages as alleged in Paragraphs 11 and 12 above, which are realleged and incorporated by reference herein.

**FOURTH CLAIM FOR RELIEF**

**(Common-law Negligence)**

**(Defendants Linda Sallman and the Saloon)**

**21.**

JOHN LARUE realleges and incorporates paragraphs 1 – 12.

**22.**

Defendants LINDA SALLMAN and THE SALOON were negligent in serving alcohol to Defendant JOSEPH SALLMAN when Defendant JOSEPH SALLMAN was visibly

1 intoxicated. Defendants LINDA SALLMAN and THE SALOON were negligent in providing  
2 sufficient alcohol to Defendant JOSEPH SALLMAN, that even if he was not visibly  
3 intoxicated, servers for THE SALOON knew or should have known he was intoxicated.

4 **23.**

5 It was reasonably foreseeable that, as a result of his intoxication, Defendant JOSEPH  
6 SALLMAN would use a firearm and become violent and threatening. It was also reasonably  
7 foreseeable that Defendant JOSEPH SALLMAN would cause injuries such as those suffered by  
8 JOHN LARUE as described above in paragraphs 11 and 12.

9 **24.**

10 The negligence of Defendants LINDA SALLMAN and THE SALOON was a  
11 substantial factor in causing JOHN LARUE's injuries as alleged in paragraphs 11 and 12.

12 **FOURTH CLAIM FOR RELIEF**

13 **(Statutory Dram-Shop Act – ORS 471.565)**

14 **(Defendant Linda Sallman and the Saloon)**

15 **25.**

16 JOHN LARUE realleges and incorporates paragraphs 1 – 12.

17 **26.**

18 JOHN LARUE caused NOTICE to be served upon Defendants LINDA SALLMAN and  
19 THE SALOON by timely commencing this action and by causing formal notice to be mailed to  
20 the registered agent for the corporation via certified return receipt requested.

21 **27.**

22 On or about July 1, 2017, Defendants LINDA SALLMAN and THE SALOON provided  
23 and purchased alcoholic beverages for Defendant JOSEPH SALLMAN.

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**29.**

It was reasonably foreseeable that Defendant JOSEPH SALLMAN when intoxicated, would carry a firearm and become violent with others. It was also reasonably foreseeable that Defendant JOSEPH SALLMAN would cause injuries such as those suffered by JOHN LARUE as described above in paragraphs 11 and 12.

**30.**

The negligence of Defendants LINDA SALLMAN and THE SALOON were a substantial factor in causing JOHN LARUE's injuries as alleged in paragraphs 11 and 12.

**FIFTH CLAIM FOR RELIEF**

**(Statutory Social Host - ORS 471.565)**

**(Defendant Linda Sallman)**

**(Statutory Social Host - ORS 471.565)**

**31.**

32.

**33.**

COMPLAINT – Page 7

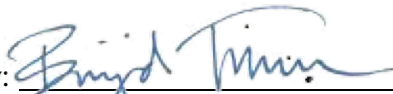




1           **WHEREFORE**, Plaintiff JOHN LARUE prays for judgment against Defendants for  
2 noneconomic damages in an amount determined by the jury to be fair and reasonable, but not to  
3 exceed the sum of **\$1,500,000**, for economic damages in an amount determined by the jury to be  
4 fair and reasonable, but not to exceed the sum of **\$80, 310.29**, plus his costs and disbursements  
5 incurred herein, and for any other relief the Court deems appropriate.

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7           Dated this 28 day of June, 2019.

8   Dwyer Williams Cherkoss  
9   Attorneys, P.C.

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11   By:   
12   Brigid Turner, OSB No. 065846  
13   Of Attorneys for Plaintiff  
14   Trial Attorney: Same  
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